

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

BERNARDO FERNANDEZ,  
Inmate Booking No. A205-495-281,

Plaintiff,

SIX UNKNOWN NAMES AGENTS;  
BARACK OBAMA,

Defendants.

Civil No. 14cv0626 GPC (MDD)

**ORDER DISMISSING CIVIL  
ACTION WITHOUT PREJUDICE  
FOR FAILING TO PAY  
FILING FEES REQUIRED  
BY 28 U.S.C. § 1914(a) AND/OR  
FAILING TO MOVE TO  
PROCEED IN FORMA PAUPERIS  
PURSUANT TO 28 U.S.C. § 1915(a)**

Plaintiff, currently detained at the Etowah County Detention Center in Gadsden, Alabama, and proceeding pro se, filed an incomprehensible one-page complaint entitled “Civil Rights Action with the Writ of Summons and Complaint” “under 42 U.S.C. § 1983” on March 17, 2014. (ECF No. 1.)

**I. FAILURE TO PAY FILING FEE OR REQUEST IFP STATUS**

All parties instituting any civil action, suit or proceeding in any district court of the United States, except an application for writ of habeas corpus, must pay a filing fee

1 of \$400. See 28 U.S.C. § 1914(a).<sup>1</sup> An action may proceed despite a party's failure to  
 2 pay this filing fee only if the party is granted leave to proceed in forma pauperis ("IFP")  
 3 pursuant to 28 U.S.C. § 1915(a). See *Andrews v. Cervantes*, 493 F.3d 1047, 1051 (9th  
 4 Cir. 2007); *Rodriguez v. Cook*, 169 F.3d 1176, 1177 (9th Cir. 1999).

5 Plaintiff has not prepaid the \$400 in filing and administrative fees required to  
 6 commence a civil action, nor has he submitted a Motion to Proceed IFP pursuant to 28  
 7 U.S.C. § 1915(a). Therefore, the case cannot yet proceed. See 28 U.S.C. § 1914(a);  
 8 *Andrews*, 493 F.3d at 1051.

9 **II. CONCLUSION AND ORDER**

10 For the reasons set forth above, the Court hereby:

11 (1) **DISMISSES** this action without prejudice for failing to pay the \$400 civil  
 12 filing and administrative fee or submit a Motion to Proceed IFP pursuant to 28 U.S.C.  
 13 § 1914(a) and § 1915(a); and

14 (2) **GRANTS** Plaintiff **forty five (45)** days from the date this Order is filed to:  
 15 (a) prepay the entire \$400 civil filing and administrative fee in full; *or* (b) complete and  
 16 file a Motion to Proceed IFP which includes a certified copy of his trust account  
 17 statement for the 6-month period preceding the filing of his Complaint. See 28 U.S.C.  
 18 § 1915(a)(2); S.D. CAL. CIVLR 3.2(b).

19 **IT IS FURTHER ORDERED** that the Clerk of the Court shall provide Plaintiff  
 20 with this Court's approved form "Motion and Declaration in Support of Motion to  
 21 Proceed In Forma Pauperis." If Plaintiff fails to either prepay the \$400 civil filing fee  
 22 or complete and submit the enclosed Motion to Proceed IFP within that time, this action  
 23 shall remain dismissed without prejudice and without further Order of the Court.

24 DATED: March 19, 2014

  
 25 HON. GONZALO P. CURIEL  
 26 United States District Judge

27 <sup>1</sup> In addition to the \$350 statutory fee, all parties filing civil actions on or after May 1, 2013,  
 28 must pay an additional administrative fee of \$50. See 28 U.S.C. § 1914(a), (b); Judicial Conference  
 Schedule of Fees, District Court Misc. Fee Schedule, eff. May 1, 2013. However, the additional \$50  
 administrative fee is waived if the plaintiff is granted leave to proceed IFP. *Id.*